

1 **ARTICLE XIII**
2 **ADMINISTRATION AND ENFORCEMENT**
3

4 **SECTION 28 – 1301 ZONING CERTIFICATES**
5

6 **28 – 1301.1 ADMINISTRATION AND ENFORCEMENT**
7

- 8 A. It shall be the duty of the Town Planner, under the supervision of the Town
9 Engineer, to administer the provisions of this Ordinance and to advise all Town
10 officials and agencies on matters relating to land use planning. The Town Planner
11 may delegate all or part of his duties and responsibilities to other Town officials or
12 employees.
13
- 14 B. Upon the effective date of this Ordinance, the Code Enforcement Officer shall have
15 the powers and duties set forth in this Ordinance. The Code Enforcement Officer
16 shall coordinate enforcement of the provisions of the Zoning Code with the Town
17 Planner.
18
- 19 C. All departments, officials and public employees of Easton which are vested with
20 the authority to issue permits or licenses shall conform to the provisions of this
21 Ordinance and shall not issue any permit or license for any use, building, structure,
22 or purpose which would be in conflict with the provisions of this Ordinance. Any
23 permit or license, issued in conflict with the provisions of this Ordinance, shall be
24 null and void. If the Town Planner shall find that any of the provisions of this
25 Ordinance are being violated, he shall notify in writing the person responsible for
26 such violations, indicating the nature of the violation and ordering the action
27 necessary to correct it. He shall order discontinuance of illegal use of land,
28 buildings, or structure; removal of illegal buildings or structures or of additions,
29 alterations, or structural changes thereto; discontinuance of any illegal work being
30 done; or shall take any other action authorized by this Ordinance to insure
31 compliance with or to prevent violation of its provisions.
32

33 **28 – 1301.2 ZONING COMPLIANCE REQUIRED**
34

35 No building certificate, occupancy certificate or other license or permit relating to the use
36 or development of land or any structure located thereon shall be issued nor shall any
37 structure shall be constructed, moved, added to, or structurally altered, or use of land
38 changed except in compliance with the terms of this Ordinance.
39
40

1 **28 – 1301.3 ZONING CERTIFICATION REQUIRED**
2

- 3 A. It shall be unlawful to use or occupy or permit the use or occupancy of any building,
4 or premises, or both, or part thereof hereafter created, constructed, changed,
5 converted or wholly or partly altered or enlarged in its use or structure until a
6 Zoning Certificate shall have been issued therefore by the Town Planner or his
7 designee, stating that the proposed use of the building or land conforms to the
8 requirements of this Ordinance. Such certification, however, is not the same as a
9 building permit, an occupancy permit or any other permits or certificates that may
10 be required by the Town Building Inspector, and zoning certification should not be
11 construed as any sort of final approval relative to the construction, demolition, or
12 occupation of any building.
13
14 B. A temporary occupancy permit may be issued by the Town Building Official for a
15 period not exceeding six (6) months during alterations or partial occupancy of a
16 building pending its completion; provided that such temporary permit may require
17 such conditions and safeguards as will protect the safety of the occupants and the
18 public.
19
20 C. The Town Planner shall maintain a record of all zoning certificates and copies shall
21 be furnished upon request to any person.
22
23 D. Failure to obtain zoning certification shall be a violation of this Ordinance and
24 punishable under Section 28 – 1308 of this Ordinance.
25

26 **28 – 1301.4 CONSTRUCTION AND USE TO BE AS PROVIDED IN**
27 **APPLICATIONS, PLANS, AND ZONING CERTIFICATES**
28

29 Zoning certificates issued on the basis of site plans and applications approved by the Town
30 Planner authorize only the use, arrangement, and construction set forth in such approved
31 plans and applications, and no other use, arrangement, or construction. Use, arrangement,
32 or construction differing with that authorized shall be deemed violation of this Ordinance,
33 and punishable as provided by Section 28 – 1308 thereof.
34

35 **SECTION 28 – 1302 PLANNING AND ZONING COMMISSION**
36

37 **28 – 1302.1 CREATION, DESIGNATION**
38

39 Upon the effective date of this Ordinance, the Easton Planning and Zoning Commission
40 shall have the powers and duties set forth in this Ordinance.

1 **28 – 1302.2 COMPOSITION, APPOINTMENT, COMPENSATION, TERM,**
2 **REMOVAL, AND VACANCIES**
3

- 4 A. The Commission shall consist of five (5) members, one (1) of whom may be a
5 member of the Town Council to serve in an ex officio capacity concurrent with his
6 or her term in office.
7
8 B. The members shall be appointed by the Mayor and thereafter confirmed by the
9 Council.
10
11 C. All members of the Commission shall serve as such without compensation, unless
12 the Council shall by resolution determine that appropriate compensation should be
13 made to the members.
14
15 D. The Commission shall elect a Chair from one of the appointed members and create
16 and fill such other of its offices as it may determine. The term of Chair shall be one
17 (1) year, with eligibility for reelection.
18
19 E. The Commission shall hold at least one (1) regular meeting each month. It shall
20 adopt rules for transactions of business and shall keep a record of its resolutions,
21 transactions, findings, and determinations, which records shall be a public record.
22
23 F. The terms of each member, except for any Town Councilman serving as an ex
24 officio member, shall be for five (5) years from the date of his or her appointment
25 or until his or her successor takes office.
26
27 G. Members may, after a public hearing, be removed by the Town Council for
28 inefficiency, neglect of duty or malfeasance in office. The Council shall file a
29 written statement among its records of reasons for such removal. Vacancies
30 occurring otherwise than through the expiration of term shall be filled for the
31 unexpired term by the Mayor with the confirmation of the Council as herein above
32 set forth.
33
34 H. The Mayor may appoint, subject to Council confirmation, an alternate member to
35 sit on the Planning and Zoning Commission in the absence of any member of the
36 Commission.
37

38 **28 – 1302.3 POWERS AND DUTIES**
39

40 The Planning and Zoning Commission is charged with the following powers and duties:
41

- 42 A. Prepare, approve and recommend to the Town Council adoption of the

1 Comprehensive Plan and the Zoning Code and amendments thereto.
2

3 B. Approve and publish plans for major geographic sections or divisions of the Town.
4

5 C. Recommend the boundaries of the various districts and appropriate regulations to
6 be enforced therein that the Town may avail itself of the zoning powers conferred
7 by the Annotated Code of Maryland, Land Use Article.
8

9 D. Advise the Town Council and Board of Appeals on matters relating to zoning,
10 annexations, applications for special exceptions and variances when appropriate.
11

12 E. Review site plans for compliance with this Ordinance and standards herein.
13

14 F. Approve proposed subdivision plats and resubdivision of existing record plats. All
15 plats must bear the signature of the Chair before legal filing in the Land Records of
16 Talbot County.
17

18 G. Review and hold public hearings on applications for Growth Allocation.
19

20 H. The mayor may appoint, subject to Council confirmation, an alternate member to
21 sit on the Planning and Zoning Commission in the absence of any member of the
22 commission.
23

24 I. Prepare, adopt, and file an annual report with the Town Council as per the
25 requirements of Section 309 of the Land Use Article of the Annotated Code of
26 Maryland.
27

28 J. Review the proposed construction of any street, square, park, or other public way,
29 ground or open space, or public building or structure, or public utility, whether
30 public or privately owned to determine whether the location, character, and extent
31 of such development is consistent with the Comprehensive Plan, as per Section 3.08
32 of the Land Use Article of the Annotated Code of Maryland.
33

34 K. Exercise any other powers, or discharge any other duties, granted to or imposed
35 upon Planning and Zoning Commissions by any other Ordinance or Regulation of
36 the Town of Easton or by the laws of the State of Maryland.
37
38
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42

1 **SECTION 28 – 1303 BOARD OF ZONING APPEALS**
2

3 **28 – 1303.1 MEMBERS OF BOARD**
4

5 Upon the effective date of this Ordinance, the Easton Board of Zoning Appeals shall have
6 the powers and duties set forth in this Ordinance. The Board shall consist of three (3)
7 members appointed by the Mayor and confirmed by the Town Council, and removable for
8 cause, upon written charges, and after public hearing. Members shall be appointed for
9 terms of three (3) years each. Vacancies shall be filled by appointment for the unexpired
10 term. The Town Council shall designate (1) alternate member for the Board of Zoning
11 Appeals who may be empowered to sit with the Board in the absence of any member of
12 the Board.
13

14 **28 – 1303.2 PROCEEDINGS OF THE BOARD OF APPEALS**
15

- 16 A. The Board of Zoning Appeals shall adopt rules necessary to the conduct of its
17 affairs, and in keeping with the provisions of this Ordinance. Meetings shall be
18 held at the call of the Chair and at such other times as the Board may determine.
19 The Chair, or in his absence the Acting Chair, may administer oaths and compel
20 the attendance of witnesses. All meetings shall be open to the public.
21
- 22 B. The Board of Zoning Appeals shall issue written decisions regarding applications
23 or appeals considered by it and shall keep minutes of its other proceedings, showing
24 the vote of each member upon each question, or if absent or failing to vote
25 indicating such fact, and shall keep records of its examinations and other official
26 actions, all of which shall be a public record and be immediately filed in the office
27 of the Board.
28

29 **28 – 1303.3 HEARINGS; APPEALS; NOTICE**
30

- 31 A. Appeals to the Board of Zoning Appeals concerning interpretation or
32 administration of this Ordinance, the Subdivision Regulations, and any other
33 ordinance of the Town authorizing appeals to the Board of Zoning Appeals may be
34 taken by any person aggrieved by such decision or by any officer, Commission, or
35 Department of the Town. Such appeals shall be taken within thirty (30) days after
36 any action by any Town official or Board applying, granting or denying a request
37 pursuant to this Ordinance, the Subdivision Regulations, or any other ordinance of
38 the Town authorizing appeals to the Board of Zoning Appeals by filing with the
39 Town Planner and with the Board of Zoning Appeals a notice of appeal specifying
40 the grounds thereof. The Town Planner shall forthwith transmit to the Board all
41 papers constituting the record upon which the action appealed from was taken.

- 1
2 B. The Board of Zoning Appeals shall fix a reasonable time for the hearing of appeal,
3 give public notice thereof as well as due notice to the parties in interest, and hold a
4 public hearing upon the appeal. At least fifteen (15) days' notice of the time and
5 place of such hearing shall be published in a paper of general circulation in the
6 Town and on the Town of Easton website, and by posting the property. At the
7 hearing, any party may appear in person or by agent or attorney. The Board shall
8 then render a written decision affirming, reversing or modifying the decision
9 appealed from.
10

11 **28 – 1303.4 STAY OF PROCEEDINGS**
12

13 An appeal stays all proceedings instituted by any Town official or agency to enforce the
14 decision appealed from, unless the official or agency from whom the appeal is taken
15 certifies to the Board of Zoning Appeals after the notice of appeal is filed with him, that by
16 reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril
17 to life and property. In such case, proceedings shall not be stayed other than by a
18 restraining order which may be granted by the Board of Zoning Appeals or by the Circuit
19 Court on application, on notice to the official or agency from whom the appeal is taken,
20 and on due cause shown.
21

22 **28 – 1303.5 POWERS AND DUTIES**
23

24 The Board of Zoning Appeals shall have the following powers and duties:
25

- 26 A. Administrative Review - To hear and decide appeals where it is alleged there is
27 error in any order, requirement, decision, or determination made by the Code
28 Enforcement Officer, Building Official, Town Planner, or the Planning and Zoning
29 Commission in the enforcement of this Ordinance.
30
31 B. Special Exceptions; Conditions Governing Applications; Procedures - To hear and
32 decide only such special exceptions as the Board of Zoning Appeals is specifically
33 authorized to pass on by the terms of this Ordinance: to decide such questions as
34 are involved in determining whether special exceptions should be granted and to
35 grant special exceptions with such conditions and safeguards as are appropriate
36 under this Ordinance, or to deny special exceptions when not in harmony with the
37 purpose and intent of this Ordinance. A special exception shall not be granted by
38 the Board of Zoning Appeals unless and until:
39
40 1. A written application for a special exception is submitted indicating the
41 section of this Ordinance under which the special exception is sought and

1 stating the grounds on which it is requested.
2

- 3 2. The Board of Zoning Appeals has determined if Planning and Zoning
4 Commission review of the application is necessary, and if so, the written
5 findings and recommendations of the Planning and Zoning Commission
6 have been received by the Board. Planning and Zoning Commission review
7 shall only be necessary when the granting of the proposed Special Exception
8 would be of such magnitude to be equivalent to a rezoning.
9
- 10 3. Notice shall be given at least fifteen (15) days in advance of public hearing.
11 The owner of the property for which special exception is sought, or his
12 agent, shall be notified by mail. Notice of such hearings shall be posted on
13 the property for which special exception is sought and at the Town Hall,
14 and notice shall be published in a newspaper of general circulation in the
15 Town, and on the Town of Easton website, at least fifteen (15) days prior
16 to the public hearing. In addition, notice to surrounding property owners
17 shall be provided in accordance with the provisions of Section 28 – 901.2
18 G of this Ordinance.
19
- 20 4. The public hearing shall be held. Any party may appear in person, or by
21 agent or attorney
22
- 23 5. The Board of Zoning Appeals shall make a finding that it is empowered
24 under the section of this Ordinance described in the application to grant the
25 special exception, and that the granting of the special exception will not
26 adversely affect the public health, safety, security, morals, or general
27 welfare, or would result in dangerous traffic conditions, or would jeopardize
28 the lives or property of the people living in the neighborhood.
29

30 In granting any special exception, the Board of Zoning Appeals may prescribe
31 appropriate conditions and safeguards in conformity with this Ordinance.
32 Violation of such conditions and safeguards when made a part of the terms
33 under which the special exception is granted, shall be deemed a violation of this
34 Ordinance and punishable under Section 28 – 1308 of this Ordinance. No
35 change or addition may be made to a special exception granted by the Board of
36 Zoning Appeals until an application for such change has been reviewed and
37 approved by the Board of Zoning Appeals. Such application procedure shall be
38 the same as for a special exception.
39

40 The Board of Zoning Appeals shall prescribe a time limit within which the
41 action for which the special exception is required shall be begun or completed,
42 or both. Failure to begin or complete, or both, such action within the time limit
43 set shall void the special exception.

1
2 6. When hearing evidence necessary for granting of any special exception, the
3 Board shall consider all pertinent facts in the case, and render a decision in
4 accordance with the following principles:
5

6 a. the proposed use conforms in all aspects to minimum requirements
7 of the district in which it is located;
8

9 b. the proposed use is not adversely affecting the health, safety, and
10 general welfare of residents of the area;
11

12 c. the proposed use will not interfere with the adequate and orderly
13 provision of public facilities necessary to service the area or the
14 proposed special exceptions;
15

16 d. the proposed use will not create congestion in the streets or undue
17 traffic hazards, and that adequate egress and ingress are provided;
18

19 e. the proposed use will not adversely affect the area and surrounding
20 property due to adverse environmental characteristics including
21 undue smoke, odor, noise, improper drainage, or inadequate access;
22

23 f. the proposed use will not adversely affect the established character
24 of the area.
25

26 g. the proposed use shall be in conformity with the provisions of the
27 Easton Comprehensive Plan including those provisions of the
28 Comprehensive Plan relating to design and performance standards
29 for the development or redevelopment of land. In addition to the
30 criteria set forth elsewhere herein when considering an application
31 for additional principal uses upon an approved lot, the proposed
32 additional uses shall be compatible and complimentary and uses
33 customarily found near or in conjunction with one another. This
34 provision may not be used to permit shopping centers which are
35 governed by other provisions of this Ordinance.
36

37 When hearing any application for a special exception, the Board may consider
38 the design of the proposal, site plans, feasibility studies, or construction
39 drawings, as an integral part of the application.
40

41 7. The applicant for a special exception shall have the burden of proof on all
42 points material to the application which shall include the burden of
43 presenting credible evidence as to each material issue and the burden of

persuasion on each material issue. The Board may disregard evidence, even if uncontroverted by an opposing party, if the Board finds such evidence not to be credible.

8. Modification of approved special exception.

Approved special exceptions may be modified as follows:

a.Minor Modifications. The Town Planner may authorize minor adjustments to an approved special exception as follows:

- i. Minor modifications of the size and location of drainage ways, sewers, roadways, landscape elements or other similar features, in light of technical or engineering considerations.
- ii. Minor modifications of the bulk of structures provided that the modified dimensions comply with all requirements of the applicable zoning district and do not allow buildings closer to property lines or otherwise adversely affect neighboring properties or the development authorized by the special exception as originally approved.
- iii. Any request for modification of any condition imposed on a special exception, which is deemed by the Town Planner to be a minor modification.

b.Modifications to Allow Accessory Uses and Structures. The Town Planner may authorize the development of accessory uses or structures as a minor modification to an approved special exception as follows:

- i. A proposed accessory use or structure may be found to be a minor modification if the accessory use or structure will not adversely affect neighboring properties or the development authorized by the plan as approved and is compliance with all other applicable Zoning Code provisions.
- ii. Prior to making a determination regarding whether the proposed accessory use or structure constitutes a minor modification, the Town Planner shall require notice to

1 abutting property owners, pursuant to the requirements
2 of Section 28.1303.3.
3
4

5 iii. The Town Planner shall provide written notification, at
6 the applicant's expense, to the applicant and abutting
7 property owners of the Director's decision to allow an
8 accessory use or structure as a minor modification.
9

10 iv. An appeal of the Town Planner's decision with respect to
11 any minor modification may be made to the Board of
12 Appeals in accordance with the procedures of Article 28-
13 1303.5 A.
14

15 c. Major Modifications. Modifications to any approved special exception
16 that the Town Planner deems to be a major modification may be approved
17 only in accordance with the procedures required for original special
18 exception approval.
19

20 C. Variances; Conditions Governing Applications; Procedures 21

22 To grant variances from the literal application of the terms of this Ordinance when the
23 applicant seeking the variance has demonstrated that the application complies with the
24 standards set forth in this Section. The Board of Zoning Appeals may not grant a
25 variance from the terms of this Ordinance unless and until:
26

- 27 1. A written application for a variance is submitted indicating the Section or
28 Sections of the Ordinance for which the variance is sought and stating the
29 grounds upon which it is requested.
30
- 31 2. A notice of a public hearing shall be provided as is set forth in Section 28 –
32 1303.3. In addition, notice to surrounding property owners shall be
33 provided in accordance with the provisions of Section 28 – 901.2 G of this
34 Ordinance.
35
- 36 3. A public hearing shall be held. Any party may appear in person, by agent
37 or by attorney.
38
- 39 4. Before granting any variance, the Board of Zoning Appeals shall issue
40 written findings of fact that:
41
 - 42 a. Granting the application: (i) will not be contrary to the public
43 interest, (ii) will be in harmony with the purpose and intent of the

Ordinance and (iii) will not be injurious to the neighborhood or otherwise detrimental to the public welfare;

b. Owing to conditions peculiar to the property, which conditions are not the result of any action taken by the applicant, a literal enforcement of the Ordinance will result in practical difficulty to the applicant.

5. Non-conforming uses of neighboring lands, structures or buildings shall not be considered grounds for the issuance of a variance nor shall permitted uses of neighboring lands, structures, or buildings.

6. The Board of Zoning Appeals shall be authorized to grant variances only with regard to provisions of the Ordinance relating to density, bulk, or area requirements. Under no circumstances shall the Board of Appeals grant a variance to allow a use which is not permitted under the terms of the Ordinance or is by implication prohibited by the terms of the Ordinance relating to the zoning district in which the subject property is located.

7. In granting any variance, the Board of Zoning Appeals may prescribe appropriate conditions and safeguards in conformity with this Ordinance. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Ordinance and punishable under Section 28 – 1308 of this Ordinance.

8. The Board may grant a variance from the provisions of the Critical Area Overlay District upon making the following findings of fact:

a. That special conditions or circumstances exist that are peculiar to the land or structure involved and that a literal enforcement of the provisions of the Critical Area Program would result in unwarranted hardship;

b. That a literal interpretation of the provisions of this Ordinance relating to the Critical Area Overlay Zones would deprive the applicant of rights commonly shared by other properties in similar areas within the Critical Area Overlay District;

c. That the granting of the variance requested would not confer upon the applicant any special privilege that is denied by the provisions of the Ordinance to other lands or structures within the Town's Critical Area Overlay District;

1 d. That the variance requested is not based upon conditions or
2 circumstances which are the result of actions by the applicant, nor
3 does the request arise from any condition relating to land or building
4 use, either permitted or nonconforming, on any neighboring
5 property;

6
7 e. That the granting of the variance requested will not adversely affect
8 water quality or adversely impact fish, wildlife, or plant habitat
9 within the Town's Critical Area Overlay Zone, and that the granting
10 of the variance will be in harmony with the general spirit and intent
11 of the Critical Areas law and the regulations promulgated by the
12 State Critical Area Commission;

13
14 9. No hearing shall be held upon an application for a variance in the Critical
15 Area Overlay District until the State Critical Area Commission has received
16 a copy of the variance application at least fifteen (15) days prior to the date
17 of the scheduled public hearing.

18
19 10. The applicant for a variance shall have the burden of proof on all points
20 material to the application which shall include the burden of presenting
21 credible evidence as to each material issue and the burden of persuasion on
22 each material issue. The Board may disregard evidence, even if
23 uncontroverted by an opposing party if the Board finds such evidence not
24 to be credible.

25
26 11. Nothing in this chapter shall give the Board the authority to grant a variance
27 from the provisions of Section 28 – 1007.2 relating to the maximum size of
28 Major retail uses.

29
30 D. Appeals of Historic District Commission Decisions; Procedures – To hear and
31 decide appeals where it is alleged there is an error in any interpretation, decision,
32 or determination made by the Historic District Commission. In reviewing the
33 interpretation, decision or determination by the Historic District Commission, the
34 Board of Appeals shall follow the following procedure:

35
36 1. Upon receiving notice of an appeal taken from a decision of the Historic District
37 Commission, the Historic District Commission shall transmit to the Board of
38 Zoning Appeals all papers constituting the record upon which the action
39 appealed from was taken and the official decision.

40
41 2. The Board of Zoning Appeals shall not receive evidence in addition to that
42 presented to the Historic District Commission. They may, at the discretion of
43 the Board of Zoning Appeals, remand the matter to the Historic District

Commission for the taking of additional evidence.

a. If the matter is remanded to the Historic District Commission for the taking of additional evidence, any competent, relevant, and material evidence may be received from, or on behalf of, any party or interested person.

b. After the taking of additional evidence, the Historic District Commission shall render its decision considering the new evidence based on such weight and significance as the Historic District Commission shall deem appropriate.

c. After the new Historic District Commission decision, any person so authorized by this Zoning Code may take an appeal as provided for herein.

3. In its review of a decision of the Historic District Commission, the Board of Zoning Appeals shall consider the record of the proceedings before the Historic District Commission, the written decision of the Historic District Commission, and the arguments made to the Board of Zoning Appeals at its hearing by a representative of the Historic District Commission and each party or interested person who appeared before the Historic District Commission or their representative.

E. Reasonable Accommodations for the Needs of Disabled Citizens

The Board of Zoning Appeals may make reasonable accommodations to avoid discrimination on the basis of a disability. Reasonable accommodations for the needs of disabled citizens shall be permitted in accordance with the evidentiary requirements set forth in the following paragraphs.

1. An applicant shall have the burden of demonstrating the following:

a. The existence of a disability;

b. Literal enforcement of the provisions of this ordinance would result in discrimination by virtue of such disability;

c. A reasonable accommodation would reduce or eliminate the discriminatory effect of the provisions of this ordinance;

d. The accommodation requested will not substantially impair the purpose, intent, or effect, of the provisions of this ordinance as applied to the property;

1 e. Environmental impacts associated with the accommodation are the
2 minimum necessary to address the needs resulting from the
3 particular disability of the applicant.
4

- 5 2. The Board of Zoning Appeals shall determine the nature and scope of any
6 accommodation under this section and may award different or other relief
7 than requested after giving due regard to the purpose, intent, or effect of the
8 applicable provisions of this ordinance. The Board may also consider the
9 size, location, and type of accommodation proposed and whether
10 alternatives exist which accommodate the need with less adverse effect.
11

12 F. Decisions of the Board of Zoning Appeals
13

14 In exercising on an appeal, the Board of Zoning Appeals may affirm, modify or
15 reverse the order, requirement, decision or determination appealed from and, to that
16 end, shall have the powers of the official or agency from whom the appeal is taken.
17 In addition, when the Board reverses the order, requirement, decision or
18 determination appealed from, the Board may remand the matter back to the official
19 or agency from whom the appeal was taken for further action together with
20 instructions from the Board.
21

22 The concurring vote of the majority of the members of the Board shall be necessary
23 to reverse any order, requirement, decision, or determination of any Town official
24 or agency, or to decide in favor of the applicant on any matter upon which it is
25 required to pass under this Ordinance, or to effect any variation in the application
26 of this Ordinance.
27

28 If any application or request is disapproved on the merits by the Board, thereafter
29 the Board shall not accept application for substantially the same proposal, on the
30 same premises, until after one (1) year from the date of such disapproval.
31

32 If an appeal or application to the Board is perfected and the public hearing date set
33 and public notice given, and thereafter the applicant withdraws the appeal, he shall
34 be precluded from filing another application for substantially the same proposal on
35 the same premises for one (1) year from the date of withdrawal.
36

37 Provided, however, that the Board may dismiss, on its own motion, or at the request
38 of the applicant, any appeal or application when it finds that material changes in
39 the application or appeal, or in its supporting plans, specifications or other
40 documents have been made or when it finds that any other procedural error
41 prejudices the rights of any person or party to the appeal or application or otherwise
42 invalidates the appeal or application. Dismissal under this provision shall not be a
43 bar to re-application or re-appeal within one year of the date of dismissal at the

applicant's expense nor shall dismissal affect the right of any person to appeal a decision of the Zoning Inspector to the Board. The Board may, at its discretion, waive part or all of the costs of the re-application or re-appeal.

28 – 1303.6 APPEALS FROM THE BOARD OF ZONING APPEALS

- A. Any person or persons, or any board, taxpayer, or department of the Town aggrieved by any decision of the Board of Zoning Appeals may seek review by the Circuit Court of such decision, in the manner provided by the laws of Maryland and particularly by the Land Use Article, Annotated Code of Maryland and Title 7, Chapter 200 of the Maryland Rules of Procedure.
- B. All costs incurred by the Town in transcribing records of meetings and hearings shall be borne by the appellants. All fees shall be paid to the Town, before any record of the case is submitted to the appropriate court.

SECTION 28 – 1304 DUTIES OF TOWN OFFICIALS, BOARD OF ZONING APPEALS, TOWN COUNCIL AND COURT ON MATTERS OF APPEAL

It is the intent of this Ordinance that all questions of interpretation and enforcement shall be first presented to the Town Planner and that such questions shall be presented the Board of Zoning Appeals only on appeal, and that recourse from the decisions of the Board of Zoning Appeals shall be to the courts as provided by law and particularly by the Land Use Article, Annotated Code of Maryland.

It is further the intent of this Ordinance that the duties of the Town Council in connection with this Ordinance shall not include hearing and deciding questions of interpretation and enforcement that may arise. The procedure for deciding such questions shall be as stated in this section and this Ordinance. Under this Ordinance the Town Council shall have only the duties of (1) considering and adopting or rejecting proposed amendments or the repeal of this Ordinance, as provided by law, (2) hearing and approving or denying requests for Planned Unit Development applications and Planned Healthcare applications, and (3) of establishing a schedule of fees and charges as stated in Section 28-1305, below.

SECTION 28 – 1305 SCHEDULE OF FEES, CHARGES AND EXPENSES

- A. The Town Council shall establish a schedule of fees, charges, and expense, and a collection procedure, for, building and occupancy permits, appeals, variances, special exceptions, amendments, site plan and subdivision review and other matters pertaining to this Ordinance. The schedule of fees shall be posted in the offices of the Town Planner and may be altered or amended only by the Town Council, upon

1 recommendation of the Planning and Zoning Commission.

- 2
- 3 B. No application shall be processed unless or until such costs, charges, fees, or expenses
- 4 have been paid in full, nor shall any action be taken on proceedings before the Board
- 5 of Appeals unless or until preliminary charges and fees have been paid in full. One
- 6 exception to this regulation is the fee for building permits which is determined during
- 7 the review of the application and shall be payable at the time of issuance.
- 8

9 **SECTION 28 – 1306 TEMPORARY USE PERMITS**

10

11 Temporary use permits may be approved by the Town Planner for specific uses identified

12 in Article II of this Ordinance. Uses not listed as permissible on a temporary basis may be

13 reviewed and permitted by the Planning and Zoning Commission. Application for the

14 permit must be made at least ten (10) days prior to the event. Applicant shall furnish all

15 information required by the Planner in order to make determination on the application.

16

17 **SECTION 28 – 1307 MINIMUM REQUIREMENTS**

18

19 In their interpretation and application, the provisions of this Ordinance shall be held to be

20 minimum requirements, adopted for the promotion of the public health, safety, morals or

21 general welfare. Whenever the requirements of this Ordinance are at variance with the

22 requirements of any other lawfully adopted rules, regulations, ordinances, deed restrictions

23 or covenants, the most restrictive or that imposing the higher standards shall govern.

24

25 **SECTION 28 – 1308 VIOLATIONS**

- 26
- 27 A. Whenever a violation of this Ordinance occurs, or is alleged to have occurred, any
- 28 person may file a written complaint. Such complaint, stating fully the causes and basis
- 29 thereof, shall be filed with the Town Planner. The Town Planner shall record properly
- 30 such complaint, immediately investigate, and take action thereon as provided by this
- 31 Ordinance.
- 32
- 33 B. Violation of the provisions of this Ordinance or failure to comply with any of its
- 34 requirements shall constitute a municipal infraction and fines may be levied in
- 35 accordance with the schedule approved by the Town Council. Each day such violation
- 36 continues shall be considered a separate offense.
- 37
- 38 C. The owner or tenant of any building, structure, premises, or part thereof, and any
- 39 architect, builder, contractor, agent, or other person, who commits, participates in,
- 40 assists in, or maintains such violation may each be found guilty of a separate offense
- 41 and suffer the penalties herein provided.
- 42
- 43 D. Nothing herein contained shall prevent the Town from taking such other lawful action

as is necessary to prevent or remedy any violation.

**SECTION 28 – 1309 ADMINISTRATIVE REVIEW FOR CERTAIN DEVELOPMENT
ACTIVITIES ON IMPROVED LOTS**

1. Applications for renovations, alterations or additions to existing improved lots which violate the prescribed setback but are no closer to the property line than the existing structure may be approved by the Town Planner. The application shall include a site plan with sufficient information to review the request. If approved by the Town Planner, nothing more than a building permit shall be required for such requests. Nothing in this provision however shall permit construction in violation of the Town's Building Code without a Variance from said Code.
2. Applications for new construction which violate the prescribed setback or for additions or new construction which exceed lot coverage limits or encroach closer to the property line than the existing plane of the improved building, may be considered by the Town Planner and may be approved provided that there is acceptable historical evidence that the property was improved in a manner consistent with the request at some point in the past, prior to the establishment of Zoning regulations for the property in question. Acceptable evidence may include physical evidence, land records, assessment information, old surveys, or Sanborn Insurance Maps. Such evidence shall not be construed to constitute automatic approval of the request. It merely allows the Town Planner to consider a request that would otherwise require a Variance. If, in the Town Planner's opinion, the site plan should not be approved via this administrative review option, the applicant shall still have the right to file for a Variance from the necessary provision(s) of the Ordinance.